



Virginia
Regulatory
Town Hall

Periodic Review and Retention of Existing Regulations Agency Background Document

Agency Name:	State Water Control Board
VAC Chapter Number:	9 VAC 25-195-10 et seq.
Regulation Title:	General VPDES Permit for Concentrated Aquatic Animal Production Facilities
Action Title:	Regulation Review and Retention
Date:	May 28, 2001

This information is required pursuant to the Administrative Process Act § 9-6.14:25, Executive Order Twenty-Five (98), and Executive Order Fifty-Eight (99) which outline procedures for periodic review of regulations of agencies within the executive branch. Each existing regulation is to be reviewed at least once every three years and measured against the specific public health, safety, and welfare goals assigned by agencies during the promulgation process.

This form should be used where the agency is planning to retain an existing regulation.

Summary

Please provide a brief summary of the regulation. There is no need to state each provision; instead give a general description of the regulation and alert the reader to its subject matter and intent.

This general permit regulation governs the discharge of wastewater from concentrated aquatic animal production facilities. "Concentrated Aquatic Animal Production Facility" means a hatchery, fish farm, or facility classified under Standard Industrial Classification (SIC) Codes 0273 or 0921 or other facility which meets any of the following criteria:

(a) facilities that contain, grow, or hold cold water fish species or other cold water aquatic animals in ponds, raceways, or other similar structures which discharge at least 30 days per year, and produce 20,000 pounds or more harvest weight of aquatic animals per year, or feed 5000 pounds or more of food during the calendar month of maximum feeding;

(b) facilities, other than closed ponds which discharge only during periods of excess runoff, that contain, grow, or hold warm water fish species or other warm water aquatic animals in ponds, raceways, or other similar structures which discharge at least 30 days per year, and produce 100,000 pounds or more harvest weight of aquatic animals per year; or

(c) cold water or warm water facilities that the Board designates as concentrated aquatic animal production facilities upon determining that they are significant contributors of pollution to State waters.

Basis

Please identify the state and/or federal source of legal authority for the regulation. The discussion of this authority should include a description of its scope and the extent to which the authority is mandatory or discretionary. Where applicable, explain where the regulation exceeds the minimum requirements of the state and/or federal mandate.

The basis for this regulation is § 62.1-44.2 et seq. of the Code of Virginia. Specifically, § 62.1-44.15(5) authorizes the Board to issue permits for the discharge of treated sewage, industrial wastes or other waste into or adjacent to state waters and § 62.1-44.15(7) authorizes the Board to adopt rules governing the procedures of the Board with respect to the issuance of permits. Further, § 62.1-44.15(10) authorizes the Board to adopt such regulations as it deems necessary to enforce the general water quality management program, §§62.1-44.15(14) authorizes the Board to establish requirements for the treatment of sewage, industrial wastes and other wastes, § 62.1-44.16 specifies the Board's authority to regulate discharges of industrial wastes, § 62.1-44.20 provides that agents of the Board may have the right of entry to public or private property for the purpose of obtaining information or conducting necessary surveys or investigations, and § 62.1-44.21 authorizes the Board to require owners to furnish information necessary to determine the effect of the wastes from a discharge on the quality of state waters.

Section 402 of the Clean Water Act (33 USC 1251 et seq.) authorizes states to administer the NPDES permit program under state law. The Commonwealth of Virginia received such authorization in 1975 under the terms of a Memorandum of Understanding with the U.S. EPA. This Memorandum of Understanding was modified on May 20, 1991 to authorize the Commonwealth to administer a General VPDES Permit Program.

Public Comment

Please summarize all public comment received as the result of the Notice of Periodic Review published in the Virginia Register and provide the agency response. Where applicable, describe critical issues or particular areas of concern in the regulation. Also please indicate if an informal advisory group was formed for purposes of assisting in the periodic review.

No public comments were received during the Notice of Periodic Review comment period.

Effectiveness

Please provide a description of the specific and measurable goals of the regulation. Detail the effectiveness of the regulation in achieving such goals and the specific reasons the agency has determined that the regulation is essential to protect the health, safety or welfare of citizens. Please assess the regulation's impact on the institution of the family and family stability. In addition, please indicate whether the regulation is clearly written and easily understandable by the individuals and entities affected.

There are 8 discharges registered under this general permit. These discharges would have been required to obtain individual permits if the general permit had not been available. The general permit process saved considerable time and expense for each of these discharges compared to the time and cost involved in obtaining individual permits. This regulation has no direct impact on the institution of the family or family stability. It is clearly written and easily understandable for the entities directly affected.

Alternatives

Please describe the specific alternatives for achieving the purpose of the existing regulation that have been considered as a part of the periodic review process. This description should include an explanation of why such alternatives were rejected and this regulation reflects the least burdensome alternative available for achieving the purpose of the regulation.

Discharges from large scale fish farms and hatcheries must be authorized under a VPDES permit, either an individual permit for each discharge or a general permit for a category of discharge. In order to streamline the permitting process and to make discharge permit requirements consistent statewide, the general permit alternative is preferred over the individual permit alternative.

Recommendation

Please state that the agency is recommending that the regulation should stay in effect without change.

The agency is recommending that the regulation stay in effect without change. This general permit expires on March 5, 2003. At that time, it may be revised during the reissuance process.

Family Impact Statement

Please provide an analysis of the regulation's impact on the institution of the family and family stability including the extent to which it: 1) strengthens or erodes the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourages or discourages economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one's spouse, and one's children and/or elderly parents; 3) strengthens or erodes the marital commitment; and 4) increases or decreases disposable family income.

This regulation has no direct impact on the institution of the family or family stability.